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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/913,924 | 08/20/2001 | Jeffery M. Zaleski | 212691 | 5503 |

23460 7590 06/10/2003

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

EXAMINER

FORD, JOHN M

ART UNIT PAPER NUMBER

1624

DATE MAILED: 06/10/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913 984

Applicant(s)

Zaleski et al

Examiner

J.M. Ford

Group Art Unit

1624

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1 - 16 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1 - 16 are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1644

116 claim₂

Restriction is going to be necessary.

37 CFR 1.475 provides for one compound invention per application, with one method of preparation and one method of use claim, provided they are of the same scope.

Claim 1 is in class 540 or class 534, depending on which metal M is elected, and which B and B1 is elected. A macrocycle, or additional ligand or a polymer are not defined. If claim 1 is elected. A specific compound, from which a genus can be constructed is going to be necessary due to the staggering breadth of claim 1.

A second solubilizing groups, as found in claim 2, 3 and 4, have no antecedent basis in claim 1, and are not defined.

Restriction to one of the following groups is required under PCT Rule 13.2.

Group I, claims 1--40, a further election of a single compound is required.

Group II claims 41--55, a further election of a single compound is required.

Group III claims 56--66, a further election of a single compound is required.

Group IV claims 67--84, a further election of a specific cancer treatment is required.

Group (V) claims 85--102 drawn to treating an infection by micro organism and irradiating. A species election is required.

Group VI claims 103--116 drawn to various pharmaceutical compositions. A single species election is required.

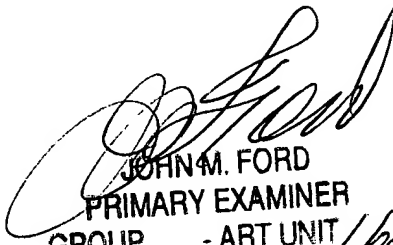
Art Unit: 1644

These distinct inventions will support separate patents as they have achieved different status in the art. A reference for one would not constitute a reference for the other.

Applicants response, in order to be held responsive, must include an election of one Group, even if traversed; 37 CFR 1.499.

John M. Ford:jmr

June 06,2003


JOHN M. FORD
PRIMARY EXAMINER
GROUP - ART UNIT / 624